

Developing Staff Draft Delta Plans: comments and changes

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Presentation to:

Delta Stewardship Council

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Charge

- Analyze comments received from organizations on First through Fifth Staff Drafts, structured by organization or groups of organizations submitting (completed November 8, 2011; revised)
- Analyze changes in Second through Fifth Staff Drafts (completed November 16, 2011; revised)
- Support development of Sixth Staff Draft Delta Plan (no direct involvement yet)

Context is important to a new agency

- Decades of disputes – “wicked problems”
- Existing state and federal agencies and policies have mixed success: CalFed, DWR, DFG, DPC; USBR, USACE, USFWS, USNMFS
- Delta Vision => legislative package of 2009
- Delta Reform Act of 2009 complex: multiple goals, most effects through Delta Plan, w/consistency reviews
- Effectively links state wide water policies, Delta ecosystem restoration, and most uses of the Delta
- Other arenas and processes: BDCP, Congress, courts...

Comments received from organizations

- 156 comments from at least 97 organizations (more than 200 if organizations represented included)
- Most comments from resource users:

Interest	Total number of comments received	Total of pages of comments received
Out of Delta water users	62	522
Delta local governments	36	332
Delta water users and land owners	35	257
Ecosystem function	23	325

Commonalities in comments

- Stated commitment to achieving the coequal goals
- Very strong commitment to participation in Delta affairs
- Desire to be affected minimally by the Delta Plan and the actions of the Council
- Desire for the Delta Plan and actions of the Council to protect or advance the interests of those making comments
- Concern that the Delta Stewardship Council may not be able to grasp and address the extreme complexity of the relevant natural and human created systems

Differences in comments

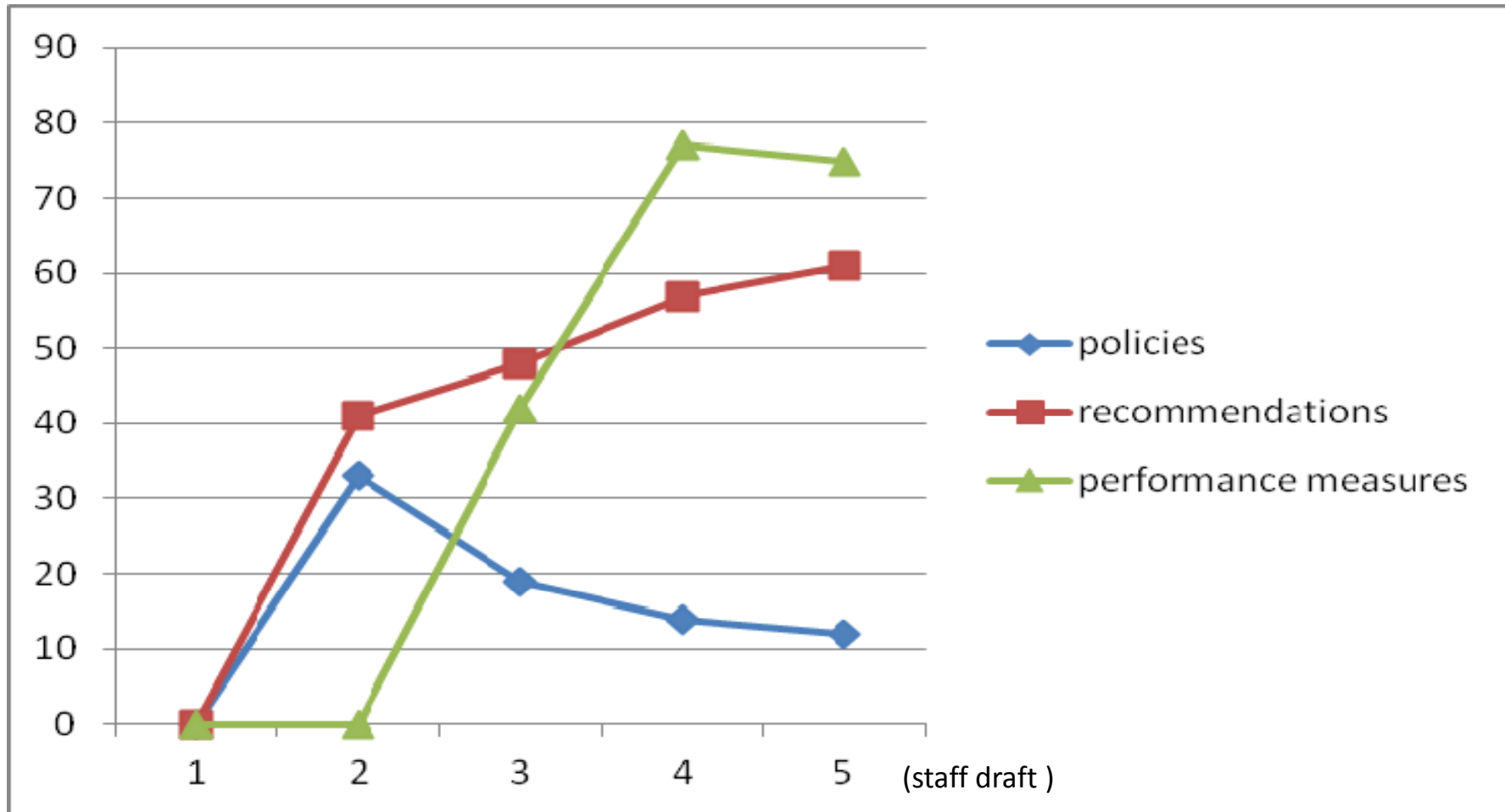
- Understandings of relevant physical, biological and human created systems and their future dynamics,
- Interests (public and private),
- Preferred arenas for resolving conflicts
- Requirements of the Sacramento-San Joaquin Delta Reform Act of 2009

Five drafts released in seven months

(total pages increased four-fold and more than nine-fold with appendices)

Date	Staff draft number	Pages (with appendices)
February 14, 2011	1	52
March 18, 2011	2	62
April 22, 2011	3	119 (131)
June 13, 2011	4	174 (240)
August 2, 2011	5	225 (468)

“Operational” elements: policies, recommendations and performance measures



Summary of chapter analyses (1)

- Staff drafts include policies and recommendations addressing major features of a Delta Plan required under the Delta Reform Act of 2009.
- The Second Staff Draft Delta Plan expressed the most direct exercise of Council authority; subsequent drafts sought to fulfill the Council's responsibilities less directly, relying more on the actions of other agencies, usually under existing legislation, policies and programs. These patterns are most visible in chapters 3 (governance), 4 (more reliable water supply), 5 (restore the Delta ecosystem) and 7 (risk reduction).

Summary of chapter analyses (2)

- Reliance on the actions of other agencies ensures continuing conflicts between the missions of and resource allocations by those agencies with the requirements of the Delta Reform Act of 2009
- The Fifth Staff Draft Delta Plan leaves unresolved a number of conflicts among its provisions (e.g., Chapters 4, 5, 7 and 8)
- Policies, recommendations, and performance measures are almost exclusively focused on single goals (e.g., reliable water supply) with few evident provisions for integration or resolving conflicts among these single focus elements

Characterization of Staff Draft 5

Advisory / Collaborative	<u>Ch 8</u> <u>Ch 7</u> (levee investment)	<u>Ch 5</u>	<u>Ch 4</u>		<u>Ch 7</u> (Table 7)	Definitive / Enforceable
Plan as Process	<u>Ch 2</u>	<u>Ch 5</u>				Plan as Pre-statement or fixed outcomes
On hold for other's plans or further work	<u>Ch 2</u>	<u>Ch 7</u> (as a whole)	<u>Ch 5</u>		<u>Ch 7</u> (Table 7-1)	In effect upon adoption of the Plan
Professional practice & management / Incremental	<u>Ch 7</u> <u>Ch 8</u>				<u>Ch 5</u>	<u>Ch 2</u> Science based / rational & comprehensive

Ch 2. Science and adaptive management

Comments:

- Kudos for excellent description
- AM not followed in the Plan
- Application in management world not clear
- How will DSC evaluate BDCP's efforts in AM?
- How will science advise DSC decisions?
- "My" actions should be exempt

Fifth Staff Draft:

- No policies in Ch 2; so this chapter provides no basis for considering Science or Adaptive Management in consistency determinations
- This applies to all covered actions, and especially CDFG/BDCP
- Little or no integration of Ch 2 with Chapters 4-8 as yet

Ch 3. Governance

Comments reveal intense conflict regarding:

- “regulatory” vs. “coordinating” powers
- scope of activities covered
- geographical reach
- processes for consistency review

Fifth staff draft Delta Plan retains:

- responsibility of the Council to develop a Delta Plan with regulatory elements
- geographical reach to match policy or recommendation
- key processes for consistency review

Ch 4. A more reliable water supply

Comments reveal deep conflict, including:

- policy autonomy of water agencies vs. any role of Council and Delta Plan
- meaning of specific parts of the Act, including “more reliable water supply” and “reduced reliance on the Delta”

Fifth staff Draft Delta Plan retains:

- elements in the Delta Plan addressing water supply reliability
- recommendations for long term management of water resources

Note that all policies and recommendations in this chapter rely on actions of other agencies for success

Ch 5. Restore the Delta ecosystem

Comments:

- On the right track
- Strong support for science-basis
- Need to link this Chapter with Chapters 3, 4, 6, 7, 8
- Habitat acreage alone is not enough
- Fifth Staff Draft:
 - Establishing flows is the major focus
 - Flow issues devolved to SWRCB, “hammer” dropped, but possibility of future Council action maintained
 - Policies protecting potential habitat cover land use plans, but with exemptions for cities and spheres of influence
 - Policies in earlier staff drafts re floodplains narrowed to apply only to less extensive defined floodways
 - Non-restoration actions require consultation with CDFG
- Defer to DFG, USFWS
- Exempt NCCPs & HCPs
- Elevation maps only a general guide
- Floodplains (pro and con)

Ch 6. Improve Water Quality

Comments:

- Council urged to be more forceful (In-Delta users & Enviros)
- Others urged DSC to defer to Water Control Boards
- Some question why no policies in this important area
- Others argue DSC should ensure existing rules are met (for example: a policy that requires compliance as a basis of consistency determination)
- Address the entire watershed vs. stay in the Delta
- Should emphasize interrelationship of water quality to Ag, Eco, uses and levee investment strategy.

Staff Draft 5:

- Retains coverage of entire watershed.
- Cross references with Ch 5
- “Hammer” blow deferred
- No policies; so this chapter provides no basis on which to consider water quality in consistency determinations

Ch 7. Reduce risk

Comments:

- Threats over-emphasized
- Risks are manageable
- Defer to Corps, and DWR
- FEMA 100, DWR 200 levees OK or not
- Flood-proofing OK or not
- Flood works do not protect but only reduce probability
- DSC is the only agency with comprehensive authority
- Delta inherently flood prone
- Table 7-1 needs work but concept OK.

Fifth staff draft:

- Seriousness of risk downplayed and moved to text
- Authority retained over limited areas (floodways and designated areas)
- Flood-proofing effectively encouraged, its use delegated to regional and local governments
- Conflicts with Ch 8 unresolved

Ch 8. Protect and enhance...values of the Delta as an evolving place

Comments:

- Urge deference to Local Gov. & DPC
- Too bleak a picture
- Follow Econ. Sust. Plan
- But, preserve Ag
- Plan too water oriented
- ID and reduce stressors
- Preserve local autonomy
- Cross check with Ch 2, 5, 7
- Wait for studies

Fifth Staff Draft:

- This chapter includes no policies, six recommendations and considerable descriptive text – much is deferred to the Economic Sustainability Plan and other enumerated plans
- Not discussed are the interrelationships between effects of policies in other chapters (especially Ch 7, Risk) and the future Delta. Chapter 7 supports increased residential uses throughout the Delta. Additionally, no levee investment strategy is yet provided to inform local land use decisions.

Delta Independent Science Board comments on fifth staff draft

- Need to integrate across chapters
- Cross check for tradeoffs (e.g., Ch 5, 7, 8)
- Monitoring and performance measures need work
- Identify major uncertainties requiring science support
- More clearly show how and where science will be part of the DSC decision process
- Show adaptive management requirements and opportunities for each chapter

Evolution in the staff drafts show response to challenge of new agency

- Increasing length of each staff draft in response to comments and issues encountered as Delta Plan's possible effects become visible
- Specifics added, the meaning of which is important to some, a mystery to many, and time consuming to digest for all
- These dynamics make it very challenging to produce a coherent Delta Plan:
 - ✓ Conflicts among elements arise
 - ✓ Clarity of purpose is obscured

The fifth staff draft also frames problems and possible actions

- Effort to create shared information, but linkage to the Act, Delta Plan and the Council is sometimes weak
- Largely frames water supply reliability in terms used by water agencies
- Suggests little institutional change
- Seeks to leverage existing programs but that increases reliance on other agencies
- Little discussion of adaptive management specific to powers of the Council (or possible lessons from prior California experiences)

Possibilities for the sixth staff draft and final Delta Plan

- Shorten and sharpen presentation of problems, roles, policies, recommendations and performance measures (explicit links to Act?)
- Address evident conflicts and establish processes to address future conflicts
- Increased attention to selected activities to enhance long-term capacity of the Council (e.g., time lines, performance measures, information and processes, including adaptive management)

Additional possibilities for the sixth staff draft

- Systematically check the Delta Reform Act to assure that the Delta Plan provides an adequate basis for Council to satisfy that Act
- Review current recommendations, performance measures and text to determine if some should (a) become policies, (b) establish a time line and criteria for future Council action, (c) be refined and sharpened as needed, or (d) be dropped if not consequentially supporting the Council's work
- Reexamine how the Delta Plan addresses strategic levee investment
- Consider what should be done to reduce current levels of risk
- Develop mechanisms – including policies, where appropriate -- for building science and adaptive management into the Plan's implementation